

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN
EDWARD C. RADZIK
Attorneys for Plaintiff
Wall Street Plaza
88 Pine Street – 21st Floor

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

ZURICH AMERICAN INSURANCE COMPANY, as
subrogee of AMERICAN EAGLE OUTFITTERS, INC., 19 Civ.

Plaintiff,

COMPLAINT

- against -

M/V OEL DELTA, *in rem*, SETH SHIPPING LTD.,
ZIM INTEGRATED SHIPPING SERVICES COMPANY,
LLC, and ORIENT EXPRESS LINES SINGAPORE,
in personam,

Defendants.

X

Plaintiff, by its attorneys, MARSHALL DENNEHEY WARNER COLEMAN &
GOGGIN, alleges upon information and belief, as follows:

FIRST: All and singular the following premises are true and constitute an admiralty or
maritime claim within the meaning of Rule 9 (h) of the Federal Rules of Civil Procedure and
within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

SECOND: At and during all the times hereinafter mentioned, Plaintiff had and now has
the legal status and principal office and place of business stated in Schedule "A", hereto
annexed, and by this reference made a part hereof.

THIRD: At and during all the times hereinafter mentioned, Defendants had and now
have the legal status and offices and places of business stated in Schedule "A", and were and

now are engaged in business as a common carriers of merchandise by water for hire, and owned, operated, managed, chartered and/or otherwise controlled the vessel above named as common carriers of merchandise by water for hire.

FOURTH: This Court has personal jurisdiction over the Defendants, and venue is proper by reason of Defendants' regular and systematic contacts with the State of New York and by reason of the forum selection clause contained in the bill of lading contract of carriage issued by Defendant, Seth Shipping Ltd., which specifies that disputes under said bill of lading are subject to the jurisdiction of the United States District Court for the Southern District of New York.

FIFTH: At and during all the times hereinafter mentioned, the said vessel was and now is a general ship employed in the common carriage of merchandise by water for hire, and now is or will be during the pendency of this action, within this District and within the jurisdiction of this Honorable Court.

SIXTH: On or about the date and at the port of shipment stated in Schedule "A", there was shipped by the shipper therein named and delivered to Defendants and the said vessel, as common carriers, the shipment described in Schedule "A" then being in good order and condition, and Defendants and the said vessel then and there accepted said shipment so shipped and delivered to them, and in consideration of certain agreed freight charges thereupon paid or agreed to be paid, agreed to transport and carry the said shipment to the port of destination stated in Schedule "A", and there deliver the same in like good order and condition as when shipped, delivered to and received by them, to the consignees named in the bills of lading.

SEVENTH: Thereafter, the said vessel arrived at the port of destination, where it and Defendants made delivery of the shipment, but not in like good order and condition as when

shipped, delivered to and received by them, but on the contrary, seriously injured and impaired in value by reason of the matter and things stated in Schedule "A", all in violation of Defendants' and the said vessel's obligations and duties as a common carrier of merchandise by water for hire and as the result of gross negligence on the part of Defendants.

EIGHTH: Plaintiff was the insurer of the shipper, consignee or owner of the shipments described in Schedule "A" and brings this action on its own behalf and as agent or trustee on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

NINTH: By reason of the premises, Plaintiff has sustained damages, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the sum of \$531,587.71.

WHEREFORE, Plaintiff prays:

1. That process in due form of law may issue against Defendants citing them to appear and answer all and singular the matters aforesaid;
2. That if Defendants cannot be found within this District, then all of their property within this District as shall be described in Schedule "A", be attached in the sum of \$531,587.71, with interest thereon and costs, the sum sued for in this Complaint;
3. That Judgment may be entered in favor of Plaintiff against Defendants for the amount of Plaintiff's damages, together with interest and costs and the disbursements of this action;
4. That process in due form of law according to the practice of this Court in causes of admiralty and maritime claims, may issue against said vessel, her engines, etc., and that all

persons having or claiming any interest therein be cited to appear and answer under oath, all and singular the matter aforesaid, and that this Court will be pleased to pronounce judgment in favor of Plaintiff for its damages as aforesaid, with interest, costs and disbursements, and that the said vessel may be condemned and sold to pay therefore; and

5. That this Court will grant to Plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
June 11, 2019

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN
*Attorney for Plaintiff, AMERICAN EAGLE
OUTFITTERS, INC.*

BY:


EDWARD C. RADZIK

Wall Street Plaza
88 Pine Street
New York, New York 10005-1801
(212) 376-6400
Fax: (212) 376-6490
(File: 30024.00362)
ecradzik@mdwgc.com

TO: Seth Shipping Ltd.
1st Floor Allied Plaza
Francis Rachel Street
P. O. Box 1289 Victoria MAHE
SEYCHELLES

Zim Integrated Shipping Services Company LLC
5801 Lake Wright Drive
Norfolk, VA 23502

M/V OEL DELTA
c/o Orient Express Lines Singapore
06-07, Cendex Center
120, Lower Delta Road
Singapore 169208

SCHEDULE A

Plaintiff's Legal Status and Office and Place of Business:

Plaintiff, Zurich American Insurance Company as subrogee of American Eagle Outfitters Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois with an office and place of business at 1299 Zurich Way, Schaumberg, IL 60196, and was at all material times herein was the subrogated insurer of the owner of the shipment which forms the subject of this action.

Defendant's Legal Status and Office and Place of Business:

Defendant, Seth Shipping Ltd. is a corporation or other legal entity organized and existing under and by virtue of the laws of a foreign sovereign with an office and place of business 1st Floor Allied Plaza, Francis Rachel Street, P.O. Box 1289, Victoria MAHE, SEYCHELLES, and was and still is an ocean carrier and issuer of the bills of lading for the shipment which forms the subject of this action.

Defendant, Zim Integrated Shipping Services Company LLC is a corporation or other legal entity organized and existing under and by virtue of the laws of one of the states of the United States with an office and place of business at 5801 Lake Wright Drive, Norfolk, VA 23502, and was and still is an ocean carrier of the shipment which forms the subject of this action.

Defendant, Orient Express Lines Singapore, was and now is a corporation or other business entity organized and existing under and by virtue of the laws of a foreign country, with an office and place of business at 06-07, Cendex Centre, 120, Lower Delta Road, Singapore 169208, and was and still is the registered owner of the ocean container vessel, *OEL DEL DELTA*, which loaded the shipment which forms the subject of this action.

Vessel	:	<i>M/V OEL DELTA</i>
Shipment	:	Mens' and Women's Wearing Apparel shipped from Chittagong, Bangladesh to New York
Port of Loading	:	Chittagong, Bangladesh
Port of Transshipment	:	Colombo, Sri Lanka
Shipper	:	Shipper's Civil Engineers Limited (Woven Unit)
Bills of Lading Nos.	:	SSPHCGP1016490; SSPHCGP101641 and SPHCGP8324096 dated 22/07/2018
Container Number.	:	SEGU2318303

Port of Discharge /
Destination : New York, NY

Consignee : The Hong Kong and Shanghai Banking Corp.

Nature of Loss /
Damage : Loss and Damage due to Seawater Flooding into Cargo Hold and
Container SEGU2318303

Plaintiff's Monetary
Damages : \$531,587.71

MDWCG File No. : 30024.00362